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Robar Enterprises, Inc.; and CJR, a general partnership

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Actions:

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.,
Superior Court of California, County of Los
Angeles, Case No. BC 325201

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.,
Superior Court of California, County of
Kern, Case No. S-1500-CV-254-348

Wm. Bolthouse Farms, Inc. v. City of
Lancaster; Diamond Farming Co. v. City
Lancaster; Diamond Farminc Co. v.
Palmdale Water Dist.,
Superior Court of California, County of
Riverside, Case Nos. RIC 353 840, RIC
344 436, RIC 344 668

**Judicial Council Coordination
No. 4408**

For filing purposes only:
Santa Clara Case No.
1-05-CV-049053

**ANSWER TO PUBLIC WATER
SUPPLIERS' FIRST AMENDED
CROSS-COMPLAINT**

Assigned to the
Honorable Jack Komar

Cross-Defendants Hi-Grade Materials, Co.; Robar Enterprises, Inc.; and CJR, a general partnership, hereby answer the Public Water Suppliers' First Amended Cross-Complaint:

GENERAL DENIAL

1. Pursuant to Code of Civil Procedure section 431.30(d), Cross-Defendants hereby generally deny each and every allegation set forth in the Complaint and First Amended Cross-Complaint, and the whole thereof, and further deny that the Plaintiffs and Cross-Complainants are entitled to any relief against Cross-Defendants.

AFFIRMATIVE DEFENSES

First Affirmative Defense

(Failure to State a Cause of Action)

2. The Complaint and First Amended Cross-Complaint, and all purported causes of action therein, fail to allege facts sufficient to constitute a cause of action against Cross-Defendants.

Second Affirmative Defense

(Statute of Limitation)

3. Each and every cause of action contained in the Complaint and First Amended Cross-Complaint is barred, in whole or part, by the applicable statutes of limitation including, but not limited to, sections 318, 319, 321, 338 and 343 of the California Code of Civil Procedure.

Third Affirmative Defense

(Laches)

4. The Complaint and First Amended Cross-Complaint, and all causes of action contained therein, are barred by the doctrine of laches.

1 **Fourth Affirmative Defense**

2 **(Estoppel)**

- 3 5. The Complaint and First Amended Cross-Complaint, and all causes of action
4 contained therein, are barred by the doctrine of estoppel.

5
6 **Fifth Affirmative Defense**

7 **(Waiver)**

- 8 6. The Complaint and First Amended Cross-Complaint, and all causes of action
9 contained therein, are barred by the doctrine of waiver.

10
11 **Sixth Affirmative Defense**

12 **(Self-Help)**

- 13 7. Cross-Defendants have, by virtue of the doctrine of self-help, preserved their
14 paramount overlying right to extract groundwater by continuing, during all times
15 relevant hereto, to extract groundwater and put it to reasonable and beneficial use
16 on its property.

17
18 **Seventh Affirmative Defense**

19 **(California Constitution Article X, Section 2)**

- 20 8. Plaintiffs' and Cross-Complainants' methods of water use and storage are
21 unreasonable and wasteful in the arid conditions of the Antelope Valley, and
22 thereby violate Article X, Section 2 of the California Constitution.

23
24 **Eighth Affirmative Defense**

25 **(Additional Defenses)**

- 26 9. The Plaintiffs and Cross-Complainants do not state all their allegations with
27 sufficient clarity to enable cross-defendants to determine what additional defenses
28 may exist to Plaintiff and Cross-Complainants' causes of action. Cross-

1 Defendants therefore reserve the right to assert all other defenses which may
2 pertain to the Complaint and Cross-Complaint.

3
4 **Ninth Affirmative Defense**

- 5 10. The prescriptive claims asserted by governmental entity Cross-Complainants are
6 *ultra vires* and exceed the statutory authority by which each entity may acquire
7 property as set forth in Water code sections 22456, 31040 and 55370.
8

9 **Tenth Affirmative Defense**

- 10 11. The prescriptive claims asserted by governmental entity Cross-Complainants are
11 barred by the provisions of Article 1, Section 19 of the California Constitution.
12

13 **Eleventh Affirmative Defense**

- 14 12. The prescriptive claims asserted by governmental entity Cross-Complainants are
15 barred by the provisions of the 5th Amendment to the United States Constitution
16 as applied to the states under the 14th Amendment of the United States
17 Constitution.
18

19 **Twelfth Affirmative Defense**

- 20 13. Cross-Complainants' prescriptive claims are barred due to their failure to take
21 affirmative steps that were reasonably calculated and intended to inform each
22 overlying landowner of cross-complainants' adverse and hostile claim as required
23 by the due process clause of the 5th and 14th Amendments of the United States
24 Constitution.
25

26 **Thirteenth Affirmative Defense**

- 27 14. The prescriptive claims asserted by governmental entity Cross-Complainants are
28 barred by the provisions of Article 1 Section 7 of the California Constitution.

1 **Fourteenth Affirmative Defense**

- 2 15. The prescriptive claims asserted by governmental entity Cross-Complainants are
3 barred by the provisions of the 14th Amendment to the United States Constitution.
4

5 **Fifteenth Affirmative Defense**

- 6 16. The governmental entity Cross-Complainants were permissively pumping at all
7 times.
8

9 **Sixteenth Affirmative Defense**

- 10 17. The request for the court to use its injunctive powers to impose a physical solution
11 seeks a remedy that is in violation of the doctrine of separation of powers set forth
12 in Article 3 section 3 of the California Constitution.
13

14 **Seventeenth Affirmative Defense**

- 15 18. Cross-Complainants are barred from asserting their prescriptive claims by
16 operation of law as set forth in Civil Code section 1007 and 1214.
17

18 **Eighteenth Affirmative Defense**

- 19 19. Each Cross-Complainant is barred from recovery under each and every cause of
20 action contained in the Cross-Complaint by the doctrine of unclean hands and/or
21 unjust enrichment.
22

23 **Nineteenth Affirmative Defense**

- 24 20. The Cross-Complainant is defective because it fails to name indispensable parties
25 in violation of California Code of Civil Procedure Section 389(a).
26
27
28

1 **Twentieth Affirmative Defense**

- 2 21. The governmental entity Cross-Complainants are barred from taking, possessing
3 or taking cross-defendants' property without first paying just compensation.
4

5 **Twenty-First Affirmative Defense**

- 6 22. The governmental entity Cross-Complainants are seeking to transfer water right
7 priorities and water usage which will have significant effects on the Antelope
8 Valley Groundwater basin and the Antelope Valley. Said actions are being done
9 without complying with and contrary to the provisions of California's
10 Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*).
11

12 **Twenty-Second Affirmative Defense**

- 13 23. The governmental entity Cross-Complainants seek judicial ratification of a project
14 that has had and will have a significant effect on the Antelope Valley Groundwater
15 Basin and the Antelope Valley that was implemented without providing notice in
16 contravention of the provisions of California's Environmental Quality Act (CEQA)
17 (Pub.Res.C. 2100 *et seq.*).
18

19 **Twenty-Third Affirmative Defense**

- 20 24. Any imposition by this court of a proposed physical solution that reallocates the
21 water rights priorities and water usage within the Antelope Valley will be ultra vires
22 as it will be subverting the pre-project legislative requirements and protections of
23 California's Environmental Quality Act (CEQA) (Pub.Res.C. 2100 *et seq.*)
24

25 **WHEREFORE**, Cross-Defendants pray that judgment be entered as follows:

- 26 1. That Plaintiffs and Cross-Complainants take nothing by reason of their
27 Complaint and Cross-Complaint;
28 2. That the Complaint and the Cross-Complaints be dismissed with prejudice;

